HON'BLE SRI JUSTICE L. NARASIMHA REDDY

WRIT PETITION No.15433 of 2007

Date: 06-08-2007.

Between :

Patel Prakash Rao.

.....Petitioner

And

The Government of Andhra Pradesh, rep. by its Secretary, Irrigation Department & others.

.....Respondents.

HON'BLE SRI JUSTICE L. NARASIMHA REDDY

WRIT PETITION No.15433 of 2007

ORDER :

The petitioner claims to be the owner of Ac.23.10 gts. of land in Survey No.265/E of Thipraspally village of Utkur Mandal, Mahaboobnagar District. He states that on account of the acts and omissions of the respondents, the land has submerged in the minor irrigation tank of the village. He seeks a declaration to the effect that the action of the respondents in not acquiring the said land is illegal, arbitrary and un-constitutional.

Heard learned counsel for the petitioner and the learned Government Pleader for Irrigation.

Each irrigation tank has its own features such as Full Tank Level (FTL), submergence area, etc. Such of the land, which becomes submerged when the water is up to the Full Tank Level, becomes 'tank' for all practical purposes. Wherever the tanks are rain-fed, it is not un-common that most of the tank bed area remains exposed to surface, unless the tank is full. Such lands are

generally cultivated as long as they are not submerged. They can be registered sikham lands, and in some cases, even patta lands of private individuals.

The necessity for the Government to acquire any land in this context, would arise if only the FTL of the tank is increased and any fresh area is subjected to submergence. The petitioner does not plead that the FTL of the tank has been increased in the recent past or that the height of the weir was raised. The fact that his land, which for the most part of the season used to be available for cultivation, has been subjected to submergence almost un-interruptedly, hardly constitutes any basis either for payment of compensation or for acquisition of the same. In the judgment in **Sonnapaneni Subba Ramaiah and others v. State of A.P.**[1], this Court took the view that the Government cannot be obligated to pay compensation in such cases. This Court is not inclined to grant any relief to the petitioner. It shall be open to the petitioner to cultivate the land as and when the level of the water recedes and the respondents cannot object to the same.

The writ petition is therefore disposed of, directing that the respondents shall not be under obligation to acquire the land, but it shall be open to the petitioner to cultivate it as and when it is not covered by water.

L. NARASIMHA REDDY, J

6th August, 2007

ajr

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[1] 2007 (3) ALD 689